

REMARKS

Claims 1-8 are pending in this application. Claims 1, 2, and 4-8 are independent. In light of the amendments and remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by *Mizikovsky* (USP 5,559,860). Applicant respectfully traverse these rejections.

By this amendment, Applicant has amended claims 1, 2, and 4-8 to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejection, but merely to timely advance prosecution of the present application.

Claim Rejections - 35 U.S.C. § 102

The disclosure of *Mizikovsky* is directed to a user selectable response to an incoming call at a mobile station. The apparatus of *Mizikovsky* selectively answers an incoming call transmitted from a cellular base station to a mobile station based upon the telephone number of the calling party. Specifically, *Mizikovsky* discloses at column 4, lines 46-53, as follows:

Various types of "alert" messages are transmitted from a base station to a mobile station in the typical cellular telephone system. The present invention is concerned with an "alert" message that represents an incoming telephone call. More particularly, and in accordance with the aforementioned

standard EIA/TIA IS-54, the occurrence of an incoming telephone destined for the mobile station is represented as an "alert with information" message. Here, the "information" identifies the calling party. One example of calling party identifying data included in the "alert with information" message is the telephone number of the calling party.

Additionally, Mizikovsky discloses at column 8, lines 1-7 as follows:

Caller ID memory 46 is coupled to caller ID processor 44 and is adapted to store the identifying data entered by way of keypad 42 together with the response category assigned to that identifying data by the user. In one embodiment, such identifying data is the telephone number of the calling party and the assigned response category may be any of the response categories discussed above.

In contrast, the present invention as set forth in claim 1, as amended, recites, *inter alia*, a data communication system wherein the mobile telephone includes a first data receiving unit for receiving data transmitted from the communication apparatus wherein the received data includes information identifying the received data as voice, text, image, or moving picture data, and an incoming-voice alert generating unit for issuing an incoming-call alert when data has been that has been received by the first data receiving unit represent voice data. As noted above, Mizikovsky discloses an apparatus where, upon receipt of the data at the mobile station, utilizing the caller identification information, caller ID memory 46, coupled to called ID processor 44, is access to identify which assigned response category the data is assigned

to. In other words, the determination of the type of data that is received at the mobile station 10 is decided at mobile station 10. There is no teaching or suggestion in *Mizikovsky* that is directed to data transmitted from the communication apparatus including information identifying the received data as voice, text, image, or moving picture data, as recited in claim 1. As *Mizikovsky* fails to teach or suggest all of the claimed elements, it is respectfully submitted that claim 1 is not anticipated by, and thus allowable over, *Mizikovsky*.

It is respectfully submitted that claims 2 and 4-8 contain elements similar to those discussed above with regard to claim 1, and thus claims 2 and 4-8, together with the claims dependent thereon, are not anticipated by *Mizikovsky* for the reasons set forth above with regard to claim 1.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

D. Richard Anderson, #40,439

^h
DRA/CMV/adt/jdm
0905-0236P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000